

ORDINANCE NO. 08-19

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 78 ENTITLED "SOLID WASTE", ARTICLE I. IN GENERAL, BY REVISING HIALEAH CODE § 78-4 ENTITLED "REMOVAL OF WASTE BY PRIVATE AGENCIES" AND IN PARTICULAR, PROVIDING AN ANNUAL FRANCHISE FEE OF \$1,500.00 PLUS 8 PERCENT OF COLLECTED GROSS RECEIPTS PAYABLE QUARTERLY, EFFECTIVE JULY 1, 2008, PLUS 12 PERCENT OF COLLECTED GROSS RECEIPTS EFFECTIVE JULY 1, 2009, PLUS 15 PERCENT OF COLLECTED GROSS RECEIPTS EFFECTIVE JULY 1, 2010 AND PLUS 18 PERCENT OF COLLECTED GROSS RECEIPTS EFFECTIVE JULY 1, 2011 AND SUBSEQUENT YEARS THEREAFTER; IMPOSING LATE FEES AND PROVIDING AN ADMINISTRATIVE CREDIT TO FRANCHISEES WHO PAY TIMELY AND COMPLY WITH REPORTING REQUIREMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is for the health, safety and welfare, order, aesthetics, good governance and proper regulation of the City and its residents; and

WHEREAS, the specific purpose and intent of this ordinance is to amend the franchise fees charged to private waste haulers operating within city limits utilizing a percentage of gross receipts formula as implemented in other municipalities and Miami-Dade County.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 78 entitled " Solid Waste" of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 78-4 entitled "Removal of waste by private agencies" to read as follows:

Chapter 78

SOLID WASTE

ARTICLE I. IN GENERAL

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Sec. 78-4. Removal of waste by private agencies.

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(c) ~~To provide for the administration and enforcement of this chapter, the private collector will pay to the city an annual fee of \$120.00 for each container located in the city, payable in equal monthly installments of \$10.00~~ Effective July 1, 2008, all private waste haulers operating within city limits shall be required to pay a franchise fee of \$1,500.00 for each year plus 8 percent of the nonexclusive franchisee's quarterly gross receipts collected of accounts serviced within the city. The percentage of gross receipts fee shall increase to 12 percent of quarterly gross receipts collected effective July 1, 2009, increase to 15 percent of quarterly gross receipts collected effective July 1, 2010, increase to 18 percent of quarterly gross receipts collected effective July 1, 2011 and continue at 18 percent of quarterly gross receipts collected each year thereafter. The franchisee shall, on or before 30 days following the end of each quarter, deliver to the city a true and correct statement of gross receipts collected during the previous quarter along with payment. Notwithstanding the accounting year used by the franchisee, the quarters end on March 31, June 30, September 30, and December 31 of each year. This franchise fee is not applicable to open top roll offs, which fees are set forth in article VIII herein. A late fee of 1½ percent for the first month shall be imposed if payment is not received by the tenth day of the next month that follows

the month that the ~~installment~~ quarterly payment ~~covers~~ is due. For each month of nonpayment thereafter, the 1½ percent late fee shall be imposed.

1. The franchisee shall allow city auditors, after reasonable written notice and during regular business hours, to audit, inspect, and examine the franchisee's financial books and records and tax returns, insofar as such records relate to accounts within city limits, for the purpose of verifying the franchisee's compliance with this section.

2. The franchisee shall receive an administrative cost credit of 2½ percent of the percentage of gross receipts collected that shall be deducted from the percentage of gross receipts collected and remitted in each quarterly statement submitted to the city. This credit shall only be allowed if the franchisee makes payment in a timely manner without incurring a late fee and complies with city reporting requirements. If a city auditor finds that a franchisee has underreported its collected gross receipts on a quarterly statement, the city may suspend or revoke the franchise according to the license suspension and revocation procedures depending on the extent of underreporting and the intention of the franchisee.

* * *

(d) It shall be unlawful for any person to collect, remove or transport any solid waste material for compensation for any location or premises within the city without first having been authorized to do so by the department of solid waste. The requirements for a certificate of authorization from the department of solid waste are as follows:

(1) A city business tax receipt (occupational license) upon payment of city business tax (formerly known as occupational license fee).

(2) Submittal of a properly completed application for dumpster certificates.

(3) A payment and performance bond in the amount of 30 percent of the average quarterly collected gross receipts of accounts serviced within city limits for the previous year, with the city as the obligee.

(4) Proof of comprehensive general public liability insurance of a minimum of \$500,000.00.

(5) Payment of the annual franchise fee and required percentage of quarterly gross receipts collected.

(6) The council may waive the requirement of the payment and performance bond upon request based on exigent or special circumstances.

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Section 2: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

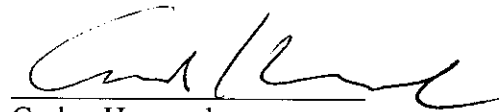
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.


This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 11th day of March, 2008.

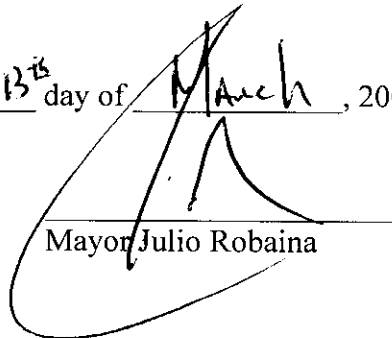


Carlos Hernandez
Council Vice President

Attest:


Rafael E. Granado, City Clerk

Approved on this 13th day of March, 2008.


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes", and Council President Bovo absent.

~~Strikethrough~~ indicates deletion. Underline indicates addition.